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ORIGINAL: ENGLISH

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SUMMARY RECORD OF THE SEVENTH MEETING

Held at Lake Success, on 29 January 1947 at 10:30 a.m.

It was agreed that the Delegates of Canada, Cuba and the Netherlands should be appointed as additional members of the Sub-Committee on Tariff Procedures. It was also agreed that the date of the first meeting of this Sub-Committee should be decided at the end of the week.

In response to a question by Mr. SHACKLE (UNITED KINGDOM) the Chairman stated that the task of this Sub-Committee would be to consider the form and contents of the General Agreement on Trade and Tariffs and would not be to review the procedural memorandum drafted at the First Session.

It was agreed that the Delegates of Brazil, Canada, Cuba and New Zealand should be added to the membership of the Technical Sub-Committee.

The Drafting Committee then considered the addition proposed by Mr. SHACKLE (UNITED KINGDOM) to Article 24, which was set out in Document E/PC/T/C.6/W.15. Mr. Shackle explained that there were two ways in which the question of a change in the methods of tariff valuation or tariff classification could be handled. The first way was to provide for fresh negotiations and this method was embodied in the addition which he proposed. The second way was to freeze the methods of tariff valuation and tariff classification. Mr. Shackle said that he had no strong preference for either of these methods, but that he thought that the method proposed in his amendment might be more elastic than the method of freezing.

/Mr. SMITH

Mr. SMITH (CANADA) observed that he preferred the method set out in Mr. Shackle's proposed addition. He was unable to agree to the use of the other method which would tend to prevent the Organization from fulfilling its function of working out standards of classification and methods of valuation. However, for the time being he reserved his position upon the amendment.

Mr. LEDDY (UNITED STATES) stated that the problem raised by Mr. Shackle might be treated in several ways, for example, it might be solved by inserting in the General Agreement on Trade and Tariffs an undertaking not to change methods of tariff valuation or tariff classification. He also pointed out that the methods which could be employed to remove this difficulty might vary in individual countries. Finally he suggested that the question might be deferred for consideration when the text of the General Agreement on Trade and Tariffs was being considered.

After several delegates had agreed with Mr. Leddy's suggestion to consider this question when the text of the General Agreement on Trade and Tariffs was being prepared, it was agreed that Mr. Shackle's addition should be referred for consideration to the Sub-Committee on Tariff Procedures.

The CHAIRMAN then directed the Committee's attention to Document E/PC/T/C.6/14 which contained the text of Article 25 as it had been provisionally drafted at a previous meeting. The Committee's attention was also directed to the redraft of the first proviso to sub-paragraph (a) (iii) of paragraph (2) which had been produced by the Australian and United States delegates. It was agreed that with the substitution of this proviso for the proviso as originally drafted, the text of Article 25 should be accepted and passed to the Legal Drafting Sub-Committee.

Mr. MA (CHINA) stated that he had received instructions for his Government to the effect that it would be impossible for China to accept

/any fixed

any fixed ratio between the quantities of her agricultural imports and those of like domestic products permitted to be marketed or produced, as provided in sub-paragraphs (e) and (f) of paragraph (2) of Article 25. China regarded this provision as imposing grave handicaps on the economic development of an underdeveloped country. Such a country, allowing for sizeable industry and commerce, had a predominantly agricultural economy, on which an overwhelming majority of its people depended for their subsistence. The government of such a country must from time to time take appropriate measures to regulate the quantities as well as varieties of production and consumption, so as to stabilize the prices of its agricultural products and maintain a proper balance between foodstuffs and raw materials on one hand and industrial manufactures on the other. The constantly changing state of demand and supply must be fully taken into account. It would not be possible in these circumstances for an agricultural country to accept any fixed ratio between its imports and its like domestic products based upon any previous representative period as the standard for regulating its future imports.

The CHAIRMAN noted Mr. Ma's reservations and requested him to submit alternative texts for consideration by the Legal Drafting Sub-Committee.

The Committee resumed its consideration of Article 27. It was agreed that sub-paragraph (a) of paragraph (3) as drafted at the First Session should be accepted subject to minor Secretariat amendments and that sub-paragraph (b) should also be accepted subject to such revision as might be needed later in the light of the revision of paragraph (2) by the ad hoc Sub-Committee.

In connection with sub-paragraph (c), it was suggested that the amounts of the quotas allocated among supplying countries should be made public. In reply to this suggestion Mr. LEDDY (UNITED STATES) said that he would prefer to revise sub-paragraph (b) to provide that public notice should be given of the total quantity or value of the
/quotas of

and of the amounts which were allocated. After some discussion, Mr. JUSSIANT (BELGIUM-LUXEMBOURG) suggested that to meet this point the word "total" might be deleted from sub-paragraph (b). It was agreed that this question should be referred to the Legal Drafting Sub-Committee which might endeavour to find a more satisfactory form of words. Sub-paragraph (c) was adopted tentatively as drafted at the First Session.

Mr. MA (CHINA) stated that his objection to the representative period mentioned in sub-paragraph (c) of paragraph (2) of Article 25 applied also to paragraph (4).

Paragraphs (4) and (5) were adopted provisionally as drafted at the First Session.

Discussion of Article 28 - Exceptions form the Rule of Non-Discrimination

Sub-paragraphs (a) and (b) of paragraph (1) were provisionally accepted as drafted at the First Session.

In connection with sub-paragraph (c) of paragraph (1), Mr. LEDDY (UNITED STATES) pointed out that the purpose of this provision was to enable countries by attaching conditions to their exports to obtain currencies other than their own currency or convertible currencies. The text as drafted at the First Session did not give effect to this purpose and he therefore suggested that it be amended. This suggestion was opposed by Messrs. SHACKLE (UNITED KINGDOM) and SMITH (CANADA) who stated that if any change were made in the text they would be forced to reserve their positions. After further discussion, Mr. Leddy withdrew his suggestion. The text as drafted at the First Session was then accepted tentatively.

Mr. GUERRA (CUBA) stated that sub-paragraph (i) of paragraph (d) was too lax in that it was not an exception to the rule of non-discrimination. To meet Mr. Guerra's point, Mr. LUXFORD (International Bank) suggested that the title of Article 28 be changed from "exceptions" to "qualifications". It was agreed that this point should be further considered by the Legal Drafting Sub-Committee. Sub-paragraph (d) was then accepted as drafted at the First Session.

/Mr. PHILLIPS

Mr. PHILLIPS (AUSTRALIA) directed attention to the words appearing in paragraph (2) "... or exchange restrictions on payments and transfers in connection with imports..." and questioned whether they should not be omitted from the text. Two points were involved, one of drafting and one of considerable substance. As the text stood, these words appeared to be qualified by the following words, "... inconsistent with the exceptions provided under this Article ...", but these exceptions dealt only with import restrictions, not with exchange restrictions. The point of substance was that this provision appeared to give the Organization power to adjudicate in a field which was the direct concern of the International Monetary Fund and would appear to make it possible, (even if unlikely) for the Organization to direct a Member to discontinue exchange discriminations which had been specifically approved by the Fund (for example, under Article VIII, Sect. 3 of the Fund's Articles of Agreement). Since the power of Members to use discriminatory exchange restrictions would be strictly limited by the Articles of the Fund (for those who were also members of the Fund) and by the special exchange agreements contemplated under Article 29 (for those who were not members of the Fund), it seemed at least doubtful whether this provision should be included in Article 28.

Mr. PHILLIPS appreciated that this Article had received very full consideration at the London Conference, but suggested that the point raised nevertheless required examination.

Messrs. SMITH (CANADA) and GUERRA (CUBA) expressed preference for the text as drafted at the First Session. Mr. LEDDY (UNITED STATES) pointed out that under Article 14 countries were permitted, during the present transitional period, to maintain exchange restrictions and discriminations and the Fund was authorized to recommend that they be removed only in exceptional circumstances. However, the use of exchange restrictions might defeat the purposes of the Charter. Also the Fund /could hardly

could hardly be given more authority to deal with exchange restrictions by means of the Charter for the Trade Organization.

Mr. HEXNER (International Monetary Fund) agreed with Mr. Leddy.

Mr. WHITE (NEW ZEALAND) felt that exchange restrictions should be governed by the Fund, but that at some stage it might be possible for the Organization to override the Fund. Messrs. SMITH (CANADA), GUERRA (CUBA), ADARKAR (INDIA) and LECUYER (FRANCE) stated that they would prefer to see the text remain unaltered. After further discussion it was finally agreed that the text should remain unaltered, but that Mr. Phillips should submit a paper on the question if he wished it to be considered further by the Drafting Committee. Paragraph (2) was then adopted provisionally.

The Committee held a lengthy discussion concerning the meaning of the phrase "shall review the provisions of this Article" in paragraph (3). It was queried whether the meaning was "shall review action taken under the provisions of this Article" or whether it was that the Organization should review the text of the Article with a view to revising it. Mr. LEDDY (UNITED STATES) suggested that the phrase be reworded to read, "shall review restrictions applied under this Article". Mr. ADARKAR (INDIA) pointed out that if this wording were adopted, the Organization would be obliged to review all restrictions applied under the Article with a view to eliminating merely two types of them. Finally it was agreed that the phrase should be reworded to read "shall review the operations of this Article", Mr. GUERRA (CUBA) recording that his Government favoured a review with the object of the earliest possible elimination of all discriminations.

Subject to this amendment, the text of paragraph (3) as drafted at the First Session was provisionally accepted.

Discussion of Article 29 - Exchange Arrangements

Paragraph (1) was accepted as drafted at the First Session and paragraph (2) was similarly accepted subject to the deletion of the words

/"Members

agree that they will not seek" and the substitution therefore of the words "Members shall not seek". Paragraphs (3) and (4) were accepted as drafted at the First Session.